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Attorney Docket No. B45160

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: D'Hondt, Erik 03-Feb-2003
Serial No.: 09/807,659 Group Art Unit: 1648
Filed: May 17, 2001 Examiner: Scheiner, Laurie A.
For: HEPATITIS A VACCINES

Assistant Commissioner for Patents
Washington, D.C. 20231

**RESPONSE TO REQUIREMENT FOR UNITY OF
INVENTION UNDER 37 C.F.R. § 1.499**

Sir:

In response to the Office Action for the above captioned application mailed on October 2, 2002, Applicant provides the following remarks. A petition under 37 C.F.R. § 1.136(a) for a three (3) month extension of time accompanies this response. Please charge any additional fees that may be required in support of this paper to Deposit Account No. 19-2570.

The Examiner asserts that Unity of invention is lacking because the inventions listed as Examiner's Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature. Applicant respectively traverses and provides the following explanation.

Applicant's traverse concerning Claims 17-21 with traverse

The pending claims, introduced by the preliminary amendment filed April 16, 2001, are drawn to a process for making a certain inactivated Hepatitis A virus (Claims 17-21) and the viruses made by that process (i.e., Claims 22-23 are product-by-process claims dependant on the process of Claims 17-21), a certain inactivated Hepatitis A virus (made by any process; Claims 24 and 25), a vaccine comprising any of the claimed Hepatitis A viruses, and a method of making a vaccine comprising a Hepatitis A virus made by the process of Claims 17-21.

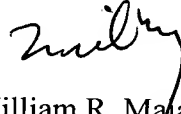
Applicant respectfully refutes the Examiner's characterizations of the various "inventions", and direct the Examiner's attention to Annex B of the Administrative Instructions Under the PCT, Part 2 (Examples Concerning Unity of Invention). For example, Example 5, Claims 1 and 2, are analogous to the instant case, wherein Claim 1 claims a process for making a coated textile material, and Claim 2 claims the textile material made by the process of Claim 1. In the instant case, Claims 17-21 pertain to making a Hepatitis A virus by a certain process, and Claims 22 and 23 claims Hepatitis A viruses made by that process. As in the Example, the process according to Claims 17-21 imparts unexpected properties to the product of Claims 22-23. Accordingly, even though Claims 17-21 and 22-23 are "Claims in Different Categories" according to Annex B of the Administrative Instructions Under the PCT, the examples make clear that Unity of Invention exists between these claims.

Furthermore, Claims 22-25 and Claims 26-39 are "Claims in the Same Category" under Annex B of the Administrative Instructions Under the PCT, and like Example 15, Unity of Invention exists between these claims. Example 15 states that unity exists between a compound (Compound A of Claim 1) and a composition comprising that compound (Claims 2). In the instant case, Claims 22-25 represent a compound (i.e., a Hepatitis A virus with certain special technical properties), and Claims 26-39 are drawn to a composition (i.e., a vaccine) comprising the claimed compound. The special technical feature common to all of Claims 22-25 and 26-39 is the Hepatitis A virus with certain special technical properties. Thus, as in the Example provided in Annex B of the Administrative Instructions Under the PCT, Unity of Invention exists between Claims 22-25 and 26-39.

Since Unity of Invention exists between Claims 17-21 and Claims 22-23, and between Claims 22-25 and Claims 26-39, it follows that Unity of Invention exists between Claims 17-39. All of these claims share the same special technical feature (i.e., Hepatitis A virus with certain special technical properties), and the Administrative Instructions Under the PCT clearly allows for claims of different categories (e.g., process and product made by that

process), or claims of the same category but drawn to compounds and compositions comprising those compounds, to meet the Unity of Invention rules. Accordingly, Applicant respectfully request withdrawal of the requirement to restrict.

Respectfully submitted,



William R. Mafarian
Attorney for Applicants
Registration No. 41,173

GlaxoSmithKline Corporation
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5968
Facsimile (610) 270-5090